



**U.S. Department of Justice**

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*Civil Division*

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June 12, 2019

**By ECF**

The Honorable Joseph A. Dickson  
United States Magistrate Judge  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

Re: ***United States v. Borough of Woodcliff Lake et al.,***  
**Civil Action No. 2:18-cv-10511 (KSH) (JAD)**

Dear Judge Dickson:

We represent the United States in the above-referenced civil action. The Court's Order (ECF No. 18), which schedules an in-person settlement conference on June 17, 2019, requires that "[p]arties with FULL settlement authority shall attend." We write to seek the Court's permission for the undersigned Counsel for the United States to attend the conference in person with the authority to negotiate a tentative resolution—subject to approval by the Assistant Attorney General for the Justice Department's Civil Rights Division—and to obtain to any necessary clarification regarding the United States' position by telephone from the appropriate Department of Justice officials during the settlement conference.

The 1993 Advisory Committee Notes to Rule 16 recognize that in litigation involving governmental agencies, it may not be practicable to have someone with "on-the-spot settlement authority" in attendance. *See* Fed. R. Civ. P. 16, Advisory Committee Notes, 1993 Amendments, Subdivision (c). In such circumstances, "access to a person who would have a major role in submitting a recommendation to the body . . . with ultimate decision-making responsibility" may suffice. *Id.*

In the present case, compliance with the Court's order would require the attendance of senior Department of Justice officials who have significant responsibilities and who are based in Washington, D.C. These officials have ultimate authority for hundreds of cases and day-to-day management tasks and, realistically, cannot attend settlement conferences in all of the cases for which they have settlement authority.

The counsel representing the United States at the June 17 settlement conference will be vested with the authority to negotiate and recommend a settlement of this matter. While any settlement is subject to the approval of the Assistant Attorney General for the Civil Rights Division,<sup>1</sup> the counsel who will attend the settlement conference have played a significant role in formulating the United States' settlement demand, which has been fully authorized by Department of Justice officials, and will similarly play a significant role in recommending the approval of any final settlement. Counsel requests the Court's permission to communicate by telephone during the conference with the appropriate Department of Justice officials, including Tamar Hagler, Deputy Chief of the Civil Rights Division's Housing and Civil Enforcement Section, to obtain any necessary clarification of the United States' settlement position. Granting the requested relief will not impede the progress of settlement negotiations, and will permit the other work of the Department of Justice and its senior officials to proceed.

The United States has conferred with counsel for Defendants regarding this request, and Defendants consent to the United States' proposal. Defendants are aware that any settlement is subject to approval by the Assistant Attorney General and will need to seek similar approval from its municipal governing authorities (representatives of which will attend the settlement conference). In the event the parties reach a tentative agreement, counsel for the United States will expeditiously seek final approval.

Accordingly, the United States respectfully requests that it be released from the obligation to bring to the settlement conference the Department of Justice officials who have final settlement authority for this matter. Counsel for the United States will physically attend the conference with the authority to negotiate a tentative resolution of this matter and will be able to contact appropriate Department of Justice officials by telephone during the settlement conference as needed.

Respectfully submitted,

CRAIG CARPENITO  
United States Attorney

By: /s/ Michael E. Campion

MICHAEL E. CAMPION  
SUSAN MILLENKY  
Assistant United States Attorneys

cc: All parties by ECF

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<sup>1</sup> In certain circumstances, settlements may also require approval from the Associate Attorney General. *See* 28 C.F.R. § 0.160.